

UNITED STATES DISTRICT COURT

Southern District of California

Office Of The Clerk
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W. Samuel Hamrick, Jr.,
Clerk of Court

August 20, 2008

Clerk, U.S. District Court
Central California, Eastern Division
3470 Twelfth Street
Riverside, CA 92501

Re: Micah Kelley v. Robert J Hernandez, Case No. 3:08-cv-01440-BTM-BLM

Dear Sir or Madam:

Pursuant to Order transferring the above-entitled action to your District, we are electronically transmitting herewith our entire original file.

Sincerely yours,

W. Samuel Hamrick, Jr.,
Clerk of the Court

By: s/ V. Trujillo, Deputy Clerk

Copy to Attorney for Plaintiffs:
Copy to Attorney for Defendants:

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MICAH KELLEY,

12 Petitioner,

13 vs.

14 ROBERT J. HERNANDEZ, Warden,

15 Respondent.
16

Civil No. 08-01440 BTM (BLM)

**ORDER TRANSFERRING ACTION
TO UNITED STATES DISTRICT
COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA,
EASTERN DIVISION**

17 Petitioner is a state prisoner proceeding pro se with a habeas corpus action filed pursuant
18 to 28 U.S.C. § 2254. Upon reviewing the petition, the Court finds that this case should be
19 transferred in the interest of justice.

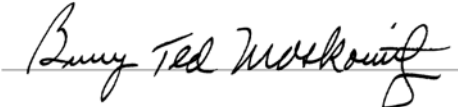
20 A petition for writ of habeas corpus may be filed in the United States District Court of
21 either the judicial district in which the petitioner is presently confined or the judicial district in
22 which he was convicted and sentenced. *See* 28 U.S.C. § 2241(d); *Braden v. 30th Judicial*
23 *Circuit Court*, 410 U.S. 484, 497 (1973). The application in the present matter attacks a
24 judgment of conviction that was entered in the San Bernadino Superior Court, which is within
25 the jurisdictional boundaries of the United States District Court for the Central District of
26 California, Eastern Division. 28 U.S.C. § 84(c)(1). Petitioner is presently confined at Richard
27 J. Donovan Correctional Facility in San Diego, California, located in San Diego County, which
28 is within the jurisdictional boundaries of the United States District Court for the Southern

1 District of California. 28 U.S.C. § 84(d). Thus, jurisdiction exists in both the Central and
2 Southern Districts.

3 When a habeas petitioner is challenging a judgment of conviction, the district court of the
4 district in which the judgment of conviction was entered is a more convenient forum because of
5 the accessibility of evidence, records and witnesses. Thus, it is generally the practice of the
6 district courts in California to transfer habeas actions questioning judgments of conviction to the
7 district in which the judgment was entered. Any and all records, witnesses and evidence
8 necessary for the resolution of Petitioner's contentions are available in San Bernadino County.
9 *See Braden*, 410 U.S. at 497, 499 n.15 (stating that a court can, of course, transfer habeas cases
10 to the district of conviction which is ordinarily a more convenient forum); *Laue v. Nelson*, 279
11 F. Supp. 265, 266 (N.D. Cal. 1968).

12 Therefore, in the furtherance of justice, **IT IS ORDERED** that the Clerk of this Court
13 transfer this matter to the United States District Court for the Central District of California,
14 Eastern Division. *See* 28 U.S.C. § 2241(d). **IT IS FURTHER ORDERED** that the Clerk of
15 this Court serve a copy of this Order upon Petitioner and upon the California Attorney General.

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18 DATED: August 15, 2008

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21 Honorable Barry Ted Moskowitz
22 United States District Judge
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